



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

chattels sold, is a remedial statute, and must be liberally construed to give effect to the legislative intent.

[Ed. Note.—For other cases, see Sales, Cent. Dig. § 1322; Dec. Dig. § 452.* 11 Va.-W. Va. Enc. Dig. 79.]

7. Assignments for Benefit of Creditors (§ 340*)—Lien of Creditor—Personal Judgment.—Code 1904, § 2462, declares by subdivision 1 that a sale of goods with delivery of possession to the buyer and reservation of title shall be void as to creditors of, and purchasers for value without notice from, such buyer, unless the contract of sale be in writing, stating the reservation, and docketed in the office of the clerk of the circuit and corporation courts where the goods may be, and by subdivision 2, that all reservations, whether recorded or not, may be enforced on petition and upon the procedure and pleading prescribed, and that the court shall render such judgment as may be required. Held, that a seller with reservation of title, who recovered against the buyers, their trustee to secure creditors and a purchaser who, with actual notice, sold to bona fide purchasers so as to put the chattel out of the seller's reach, was entitled to a personal judgment against the defendants.

[Ed. Note.—For other cases, see Assignments for Benefit of Creditors, Cent. Dig. §§ 1025-1034; Dec. Dig. § 340.* 1 Va.-W. Va. Enc. Dig. 838.]

Appeal from Corporation Court of Buena Vista.

Action by the Liquid Carbonic Company against L. B. Whitehead and others. From a judgment of dismissal, plaintiff appeals. Reversed and judgment ordered to be entered for plaintiff against defendants Whitehead, A. W. Robertson, trustee, L. Blair, and S. H. Yokeley, jointly and severally.

Glasgow & White, of Lexington, and *H. S. Rucker*, of Martinton, W. Va., for plaintiff in error.

Robt. E. Scott, of Richmond, for defendants in error.

GOODLOE et al. v. WOODS et al.

Nov. 20, 1913.

[80 S. E. 108.]

1. Powers (§ 34*)—Construction—Execution.—Where a testator devised lands to one for life, to be disposed of at the devisee's death as he might think proper, the devisee had a power of appointment which he could exercise either by will or by deed; there being no mode of execution prescribed.

[Ed. Note.—For other cases, see Powers, Cent. Dig. §§ 121-127;

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Dec. Dig. § 34.* 11 Va.-W. Va. Enc. Dig. 290; 14 Va.-W. Va. Enc. Dig. 837; 15 Va.-W. Va. Enc. Dig. 818.]

2. Wills (§ 705*) — Construction — Judgment — Conclusiveness. — Where a judgment construing a testator's will declared that a devisee took land with power of appointment either by will or deed, and was not appealed from, but remained in force for many years, it became a conclusive adjudication of the rights under the will, and could not thereafter be collaterally attacked.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 1682; Dec. Dig. § 705.* 6 Va.-W. Va. Enc. Dig. 341; 14 Va.-W. Va. Enc. Dig. 466; 15 Va.-W. Va. Enc. Dig. 419.]

3. Husband and Wife (§ 31*)—Antenuptial Settlements.—Where a man having a life estate in lands, under his father's will, with power of appointment, agreed to convey to his contemplated wife his entire interest therein, and conveyed the land to a trustee for the benefit of his wife and her children, if any, and the wife acquiesced in the conveyance, purchasers of the land from the wife could not attack the conveyance on the theory that the husband did not carry out his agreement with his contemplated spouse.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. §§ 178-195, 883, 884; Dec. Dig. § 31.* 9 Va.-W. Va. Enc. Dig. 586; 14 Va.-W. Va. Enc. Dig. 680; 15 Va.-W. Va. Enc. Dig. 641.]

4. Husband and Wife (§ 31*)—Antenuptial Conveyance—Estates Conveyed.—Where a prospective husband conveyed land in trust for the benefit of his wife and any children who might be the issue of the marriage, the wife did not take the fee simple, but the children took jointly with her; it appearing that the conveyance provided for reversion in case of the wife's death without issue.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. §§ 178-195, 883, 884; Dec. Dig. § 31.* 9 Va.-W. Va. Enc. Dig. 586; 14 Va.-W. Va. Enc. Dig. 680; 15 Va.-W. Va. Enc. Dig. 641.]

5. Judicial Sales (§ 53*)—Interests Conveyed.—Where land which had been conveyed in trust for a woman and her children was sold in a proceeding in which the children were not made parties, the purchaser did not acquire their interest.

[Ed. Note.—For other cases, see Judicial Sales, Cent. Dig. § 270; Dec. Dig. § 53.* 8 Va.-W. Va. Enc. Dig. 824; 14 Va.-W. Va. Enc. Dig. 615; 15 Va.-W. Va. Enc. Dig. 578.]

6. Husband and Wife (§ 31*)—Antenuptial Settlements—Construction.—Where a prospective husband conveyed land in trust for the benefit of his wife and any children who might be born to her, such children took a vested interest.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

§§ 178-195, 883, 884; Dec. Dig. § 31.* 9 Va.-W. Va. Enc. Dig. 586; 14 Va.-W. Va. Enc. Dig. 680; 15 Va.-W. Va. Enc. Dig. 641.]

7. Judgment (§ 677*)—Persons Bound—Representation.—The doctrine of representation, whereby one party who is before the court represents the interests of others not made parties, applies only to contingent interests, and hence cannot operate to defeat the rights of children who had a vested interest in a trust estate by giving validity to a judicial sale of the trust property had in a proceeding to which they were not parties.

[Ed. Note.—For other cases, see Judgment, Dec. Dig. § 677.* 6 Va.-W. Va. Enc. Dig. 314.]

8. Judgment (§ 677*)—Persons Bound—Representation.—Where a prospective husband conveyed land in trust for the benefit of his wife and the children of the marriage, with a provision that it should revert to him in case of her death without issue, the husband could not by being made a party, represent the minor children so as to bind them in a proceeding whereby it was sought to subject the land to the payment of obligations of the testator who devised it to the husband; the interests of the husband and his children not being identical.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. §§ 1062, 1193; Dec. Dig. § 677.* 6 Va.-W. Va. Enc. Dig. 314.]

9. Tenancy in Common (§ 19*)—Incumbrances on Land—Purchase by Cotenant.—Where a mother and her minor children were tenants in common, the mother's purchase of the land at judicial sale was for the benefit of herself and her children, and she was merely entitled to credit for discharging the incumbrance.

[Ed. Note.—For other cases, see Tenancy in Common, Cent. Dig. §§ 55-59; Dec. Dig. § 19.* 8 Va.-W. Va. Enc. Dig. 120; 14 Va.-W. Va. Enc. Dig. 596; 15 Va.-W. Va. Enc. Dig. 549.]

10. Tenancy in Common (§ 43*)—Conveyance by Tenant—Effect.—A deed from a tenant in common carries to the grantee only an undivided interest, no matter by what description the property is conveyed, and hence, where a mother was tenant in common of land with her two children, the mother's mortgage of the entire tract will not defeat the rights of the children, and a reconveyance by the mortgagee to the mother after foreclosure will not change the interests of the parties.

[Ed. Note.—For other cases, see Tenancy in Common, Cent. Dig. §§ 130-132, 136, 137; Dec. Dig. § 43.* 8 Va.-W. Va. Enc. Dig. 122; 14 Va.-W. Va. Enc. Dig. 594; 15 Va.-W. Va. Enc. Dig. 548.]

11. Specific Performance (§ 95*)—Right to Compel—Title of

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Vendor.—Vendors who cannot furnish the purchasers with a perfect title are not entitled to specific performance.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 257-277; Dec. Dig. § 95.* 12 Va.-W. Va. Enc. Dig. 598; 14 Va.-W. Va. Enc. Dig. 941; 15 Va.-W. Va. Enc. Dig. 917.]

12. Vendor and Purchaser (§§ 126, 127*)—Possession—Rents and Profits—Improvements.—Where a vendor of land, after putting his purchaser into possession, was unable to give a marketable title, and thus obtain specific performance, the purchaser, upon exercising his privilege of rejecting the title, is chargeable with the rents and profits of the land during the time in which he was in possession and for any waste committed, but is entitled to credit for improvements.

[Ed. Note.—For other cases, see Vendor and Purchaser, Cent. Dig. §§ 229, 230, 231, 232; Dec. Dig. §§ 126, 127.* 11 Va.-W. Va. Enc. Dig. 986.]

13. Costs (§ 12*)—Imposition—Discretion of Court.—The imposition of costs is in the discretion of the court.

[Ed. Note.—For other cases, see Costs, Cent. Dig. §§ 20, 22, 23; Dec. Dig. § 12.* 3 Va.-W. Va. Enc. Dig. 608; 14 Va.-W. Va. Enc. Dig. 262; 15 Va.-W. Va. Enc. Dig. 229.]

Appeal from Circuit Court, Nelson County.

Bill by Sallie E. Woods and another against W. G. Goodloe and others. From the decree, defendants Goodloe and Mathews appeal. Affirmed.

Coleman, Easley & Coleman, of Lynchburg, for appellants.

Caskie & Caskie and *Whitehead & Whitehead*, all of Lynchburg, for appellees.

JACOBS *v.* WARTHEN.

Nov. 20, 1913.

[80 S. E. 113.]

1. Sales (§ 359*)—Actions—Evidence—Sufficiency.—In an action for the purchase price of horses, where defendant pleaded a breach of warranty, evidence held sufficient to support the judgment for plaintiff.

[Ed. Note.—For other cases, see Sales, Cent. Dig. §§ 511, 1056-1059; Dec. Dig. 359.* 13 Va.-W. Va. Enc. Dig. 663; 14 Va.-W. Va. Enc. Dig. 1065; 15 Va.-W. Va. Enc. Dig. 1062.]

2. Appeal and Error (§ 690*)—Record—Questions Presented—Admission of Evidence.—A bill of exceptions to the ruling of the

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.